

REMARKS

Claims 1-6, 8-16, 18-23, 25, and 26 are pending in this application. Claims 7, 17, 24, and 27 have been canceled. Claims 12 and 14-19 stand rejected under 35 U.S.C. § 112; claims 1, 2, 4-6, 10-13, and 16-18 stand rejected under 35 U.S.C. § 101; claims 1-4, 12, 14, 16, 18-22, and 23 stand rejected under 35 U.S.C. § 102(b); claims 5, 6, 8-11, 13, 15, 25, and 26 stand rejected under 35 U.S.C. § 103(a). The Applicants have amended the remaining claims to more particularly point out and claim the subject matter of the invention. In view of the foregoing amendments, the Applicants respectfully submit that the remaining claims are now in condition for allowance.

In the Claims

Claim Rejections – 35 U.S.C. § 112

Pending claims 12 and 14-19 stand rejected under 35 U.S.C. § 112. The Applicants have amended claim 12 to delete the word “custom” from the phrase “said custom travel package” in line 26. Claim 1 provides antecedent basis for “said travel package” in claim 12, as amended.

The Applicants have amended claim 14 to delete “said customer preference database” in line 24, which moots the antecedent basis rejection of that claim.

As the Examiner has suggested, the Applicants have amended claims 15, 16, 18, and 19 to make them dependent on independent claim 14. The dependency of these claims on independent claim 13 was inadvertent and resulted from a typographical error in the original application.

Claim Rejections – 35 U.S.C. § 101

Pending claims 1, 2, 4-7, 10-13, and 16-18 stand rejected under 35 U.S.C. § 101 for non-statutory subject matter. The Examiner stated that “the present basis for 35 U.S.C. 101 inquiry is a two-prong test: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.” (Office Action of August 11, 2005, p. 3.) As the Examiner acknowledged, the Applicants’ invention produces a useful, concrete, and tangible result. (*Id.*, p. 6.)

With respect to the technical arts prong, the Board of Patent Appeals and Interferences has ruled in a precedential opinion that there is no separate technological arts test under § 101. *Ex parte Lundgren*, 76 U.S.P.Q.2d 1385, 1388 (Bd. Pat. App. & Int., Sept. 28, 2005) (reversing the examiner’s rejection under § 101). The Board determined that “there is no judicially recognized separate ‘technological arts’ test to determine patent eligible subject matter under § 101.” *Id.* Applicants believe the Examiner’s § 101 rejections are improper in light of the *Lundgren* case. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections of claims 1, 2, 4-7, 10-13, and 16-18 under 35 U.S.C. § 101.

Claim Rejections – 35 U.S.C. § 102(b)

Pending claims 1-4, 12, 22, and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Vance et al. (U.S. Patent No. 6,442,526). The Applicants have amended claims 1 and 22 to more particularly claim one aspect of the Applicants’ invention—the use of marketing campaign parameters in creating a travel package

profile. Neither Vance et al, nor any of the other cited art, teaches or suggests using marketing campaign parameters in the way that Applicants' have described and claimed.

As explained in the specification, marketing campaign parameters are used to create travel packages according to specific marketing campaigns. For example, a marketing campaign may be designed to package special fares in the form of a general-availability travel package:

A marketing campaign repository 216 also may be included in the packaging system 100. The marketing campaign repository 216 stores information regarding specific marketing campaigns. Marketing campaigns are designed to package specific travel services that service providers 102 wish to sell as part of a travel package. For instance, marketing campaigns may be designed to package special fares in the form of a general-availability travel package. Campaign parameters defining the marketing campaign are contained in the marketing campaign repository 216 and used by the dynamic packaging engine 204 to create specific travel packages in accordance with the marketing campaign.

(Specification, p. 9, line 25 – p. 10, line 2.)

As Applicants explained, special fares may include fares or services for which demand is lower than normal, or which are targeted at specific groups of customers:

Travel agents also may not have access to many short-term fares—fares for those services that are purchased shortly before they are to be used. As the scheduled date of departure for a given airline flight approaches, leisure fares are typically removed from the global distribution systems. After this time, the majority of leisure fares are no longer available via the global distribution systems. Because leisure travelers usually purchase airline tickets well in advance of their expected travel dates, demand for short-term leisure fares is usually low. These short-term leisure fares are part of a category referred to as special fares. The special fares category also may include other fares for which demand is lower than normal, or fares that are targeted at specific groups of customers. Airlines frequently desire to sell special fares without shifting demand from other markets such as business travel.

Accordingly, airlines have sought ways to market special fares in a way that spurs demand without interfering with other markets.

(Specification, p. 3, lines 24-32.)

Thus, the use of marketing campaign parameters in the travel package profile does not mean showing advertisements to customers based on marketing criteria entered by advertisers. Rather, in the context of the Applicants' invention, marketing campaign parameters are part of the travel package profile and are used to generate the travel package itself.

In rejecting claims 7, 17, 24, and 27, the Examiner relied on Bull et al. (U.S. Publication No. 2003/0187726) (in combination with other references under 35 U.S.C. § 103(a)) for its disclosure of advertisements shown to the customer based on marketing criteria entered by the advertisers that will be logged with the user profile. (Office Action, pp. 14-15, 17, and 19.) However, the use of advertisements disclosed in Bull et al. is different from the Applicants' invention. As noted above, showing advertisements to customers based on marketing criteria entered by advertisers is not the same as including "marketing campaign parameters" in a travel package profile according to the Applicants' invention.

The Applicants' have amended independent claim 1 to more particularly point out and claim the "marketing campaign parameter" aspect of the invention. As a result of the amendments to claim 1, claims 1-4 and 12 all now require "identifying one or more marketing campaign parameters," and "defining a travel package profile based at least in part on said one or more marketing campaign parameters." As the Examiner has acknowledged, Vance et al. does not teach or suggest these features. (Office Action, p. 14.) Moreover, as noted above, Bull et al. does not cure this deficiency in the

teaching of Vance et al. Accordingly, the Applicants respectfully request that the Examiner withdraw this rejection under 35 U.S.C. § 102(b) with respect to claims 1-4 and 12.

The Applicants also have amended claim 22 to more particularly point out and claim the “marketing campaign parameter” aspect of the invention. As a result of the amendments to claim 1, claims 1-4 and 12 all now require “a storage means for storing a plurality of marketing campaign parameters,” and “a packaging means, in communication with said exchange means, for selecting a plurality of travel services from said inventories of available travel services wherein said selection is based upon a travel package profile including one or more of said plurality of marketing campaign parameters.” As the Examiner has acknowledged, Vance et al. does not teach or suggest these features. (Office Action, p. 14.) Moreover, as noted above, Bull et al. does not cure this deficiency in the teaching of Vance et al. Accordingly, the Applicants respectfully request that the Examiner withdraw this rejection under 35 U.S.C. § 102(b) with respect to claims 22 and 23.

Pending claims 14, 16, and 18-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Vance et al. (U.S. Patent No. 6,442,526). The Applicants have amended independent claim 14 to more particularly point out and claim the “marketing campaign parameter” aspect of the invention. As a result of the amendments to claim 14, claims 14, 16, and 18-21 all now require “a marketing campaign repository including a plurality of marketing campaign parameters,” and “a travel package profile, based at least in part on one or more of said plurality of marketing campaign parameters, including at least a plurality of data relating to a desired travel service package.” As the

Examiner has acknowledged, Schiff et al. does not teach or suggest these features. (Office Action, p. 17.) Moreover, as noted above, Bull et al. does not cure this deficiency in the teaching of Schiff et al. Accordingly, the Applicants respectfully request that the Examiner withdraw this rejection under 35 U.S.C. § 102(b) with respect to claims 14, 16, and 18-21.

Claim Rejections – 35 U.S.C. § 103

Pending claims 5, 6, 9, 10, and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vance et al. in view of Iyengar et al. (U.S. Patent No. 6,360,205). As noted above, the Applicants have amended independent claim 1 to more particularly point out and claim the “marketing campaign parameter” aspect of the invention. As a result of the amendments to claim 1, claims 5, 6, 9, and 10 all now require “identifying one or more marketing campaign parameters,” and “defining a travel package profile based at least in part on said one or more marketing campaign parameters.” As the Examiner has acknowledged, Vance et al. does not teach or suggest these features. (Office Action, p. 14.) Iyengar also fails to teach or suggest these features, and Bull et al. does not cure these deficiencies in the teachings of Vance et al. and Iyengar et al. Accordingly, the Applicants respectfully request that the Examiner withdraw this rejection under 35 U.S.C. § 103(a) with respect to claims 5, 6, 9, and 10.

The Applicants also have amended claim 13 to more particularly point out and claim the “marketing campaign parameter” aspect of the invention. As a result of the Amendment, claim 13 now requires “identifying one or more marketing campaign parameters,” and “selecting two or more travel services from said plurality of travel

services, based at least in part on said marketing campaign parameters, wherein said selected two or more travel services includes at least one special fare travel service selected from said plurality of special fare travel services.” As the Examiner has acknowledged, Vance et al. does not teach or suggest these features. (See Office Action, pp. 14, 17, and 19.) As noted above, Iyengar also fails to teach or suggest these features, and Bull et al. does not cure these deficiencies in the teachings of Vance et al. and Iyengar et al. Accordingly, the Applicants respectfully request that the Examiner withdraw this rejection under 35 U.S.C. § 103(a) with respect to claim 13.

Pending claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Vance et al. in view of Williams (U.S. Publication No. 2003/0149600). As noted above, the Applicants have amended independent claim 1 to more particularly point out and claim the “marketing campaign parameter” aspect of the invention. As a result of the amendments to claim 1, claim 8 now requires “identifying one or more marketing campaign parameters,” and “defining a travel package profile based at least in part on said one or more marketing campaign parameters.” As the Examiner has acknowledged, Vance et al. does not teach or suggest these features. (Office Action, p. 14.) Williams also fails to teach or suggest these features, and, as noted above, Bull et al. does not cure these deficiencies in the teachings of Vance et al. and Williams. Accordingly, the Applicants respectfully request that the Examiner withdraw this rejection under 35 U.S.C. § 103(a) with respect to claim 8.

Pending claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Vance et al. in view of Barth et al. (U.S. Publication No. 2005/0010567). As noted above, the Applicants have amended independent claim

1 to more particularly point out and claim the “marketing campaign parameter” aspect of the invention. As a result of the amendments to claim 1, claim 11 now requires “identifying one or more marketing campaign parameters,” and “defining a travel package profile based at least in part on said one or more marketing campaign parameters.” As the Examiner has acknowledged, neither Vance et al. nor Barth et al. teaches or suggests these features. (Office Action, pp. 14 and 19.) Moreover, Bull et al. does not cure these deficiencies in the teachings of Vance et al. and Barth et al. Accordingly, the Applicants respectfully request that the Examiner withdraw this rejection under 35 U.S.C. § 103(a) with respect to claim 11.

Pending claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Schiff et al. in view of Barth et al. The Applicants have amended independent claim 14 to more particularly point out and claim the “marketing campaign parameter” aspect of the invention. As a result of the amendments to claim 14, claim 15 now requires “a marketing campaign repository including a plurality of marketing campaign parameters,” and “a travel package profile, based at least in part on one or more of said plurality of marketing campaign parameters, including at least a plurality of data relating to a desired travel service package.” As the Examiner has acknowledged, neither Schiff et al. nor Barth et al. teaches or suggests these features. (Office Action, pp. 17 and 19.) Moreover, Bull et al. does not cure these deficiencies in the teachings of Schiff et al. and Barth et al. Accordingly, the Applicants respectfully request that the Examiner withdraw this rejection under 35 U.S.C. § 103(a) with respect to claim 15.

Pending claims 25 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Vance et al. in view of Barth et al. The Applicants have amended

independent claim 25 to more particularly point out and claim the “marketing campaign parameter” aspect of the invention. As a result of the amendments to claim 25, claims 25 and 26 both now require “a plurality of marketing campaign parameters,” and “a package profile including one or more of said plurality of marketing campaign parameters.” As the Examiner has acknowledged, neither Vance et al. nor Barth et al. teaches or suggests these features. (Office Action, pp. 14 and 19.) Moreover, Bull et al. does not cure these deficiencies in the teachings of Vance et al. and Barth et al. Accordingly, the Applicants respectfully request that the Examiner withdraw this rejection under 35 U.S.C. § 103(a) with respect to claims 25 and 26.

In an effort to move this application toward allowance, the Applicants have made the foregoing amendments to more particularly point out and claim the “marketing campaign parameter” aspect of the invention. Applicants do not concede, however, that other aspects of the invention are taught or suggested in the prior art. Applicants reserve the right to pursue claims directed to other aspects of the invention in the future, including in potential continuation applications.

SUMMARY

Pending claims 1-6, 8-16, 18-23, 25, and 26, as amended, are allowable. The Applicants respectfully request that the Examiner grant early allowance of these claims. The Examiner is invited to contact the undersigned attorneys for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,



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